

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cheyanne Ralph	Team: Squad #2	CCRB Case #: 201802220	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 03/21/2018 5:10 PM	Location of Incident: 125th Street A, C, B, D-line Subway Station	Precinct: 28	18 Mo. SOL 9/21/2019	EO SOL 9/21/2019	
Date/Time CV Reported Wed, 03/21/2018 7:07 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 03/21/2018 7:07 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Rulx Noel	27985	940116	TB DT03
2. POM Eviy Romero	27723	937429	TB DT03

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jonathan Gonzalez	21144	958648	TB DT03
2. POM John Vicente	27165	951392	TB DT03

Officer(s)	Allegation	Investigator Recommendation
A.POM Rulx Noel	Force: Police Officer Rulx Noel used physical force against § 87(2)(b)	
B.POM Eviy Romero	Force: Police Officer Eviy Romero used physical force against § 87(2)(b)	
C.POM Rulx Noel	Force: Police Officer Rulx Noel used physical force against § 87(2)(b)	

Case Summary

On March 21, 2018, § 87(2)(b) and § 87(2)(b) filed this complaint on behalf of § 87(2)(b) year-old § 87(2)(b) and § 87(2)(b)-year-old § 87(2)(b) whom they did not know, via the on-line website. On that same day, § 87(2)(b) filed a complaint about the same incident via the Call Processing System.

On March 21, 2018, at approximately 5:10 p.m., § 87(2)(b) and § 87(2)(b) entered the 125th Street A,B,C,D-line Subway Station in Manhattan. Police Officer Rulx Noel of Transit District 3 approached § 87(2)(b) accused her of evading the train fare, and instructed her to leave the subway station. When § 87(2)(b) refused to leave the subway station, Police Officer Noel and Police Officer Eviy Romero of Transit District 3 pulled and pushed § 87(2)(b) to and through the emergency exit gate (**Allegations A and B: Force;** § 87(2)(g) As § 87(2)(b) walked through the emergency exit gate at the station, Police Officer Noel pushed her (**Allegation C: Force;** § 87(2)(g) § 87(2)(b) was arrested and taken to the Transit District 3 stationhouse where she was released to her mother, § 87(2)(b) § 87(2)(b) was not summonsed or arrested.

This case contains video evidence provided to the CCRB by § 87(2)(b) and the Metropolitan Transit Authority (MTA). These videos can be found in IA # 24 (Board Review 01) and IA #69 (Board Review 02). The transcriptions of these videos can be found in IA #134 (Board Review 03) and IA #97 (Board Review 04). All relevant portions are embedded in the relevant sections below.

Findings and Recommendations

Allegation A-Force: Police Officer Rulx Noel used physical force against § 87(2)(b)

Allegation B- Force: Police Officer Eviy Romero used physical force against § 87(2)(b)

§ 87(2)(b) provided a telephone statement on March 29, 2018 (Board Review 05). § 87(2)(b) provided telephone statements on March 29, 2018 (Board Review 06) and April 30, 2018 (Board Review 07). She was interviewed at the CCRB on April 4, 2018. § 87(2)(b) provided a telephone statement on April 3, 2018 (Board Review 08). She was interviewed at the CCRB on May 2, 2018. Police Officer Romero was interviewed at the CCRB on May 9, 2018, and Police Officer Noel was interviewed at the CCRB on May 17, 2018. The investigation was unable to obtain a statement from § 87(2)(b) or § 87(2)(b) despite extensive contact attempts to reach them and their parents (Board Review 10). § 87(2)(b) missed multiple interview appointments and neither § 87(2)(b) nor her parents responded to the contact attempts made to them.

It is undisputed that Police Officer Noel approached § 87(2)(b) accused her of evading the fare and directed her to leave the subway station and that she was uncooperative with Police Officer Noel's instructions. The officers then handcuffed and arrested § 87(2)(b)

§ 87(2)(b) stated that as she and § 87(2)(b) entered through the turnstiles, an unknown male pushed himself up against the back of § 87(2)(b) and went through the turnstile without paying. The male then appeared to join with § 87(2)(b) and § 87(2)(b) who were already inside of the station.

Police Officer Noel then approached § 87(2)(b) and the unknown male and said, “You know coming into the station with somebody else is pretty much the same as not paying?” § 87(2)(b) said something to Police Officer Noel that § 87(2)(b) could not hear. Police Officer Noel then pointed towards the turnstiles and told § 87(2)(b) that she had to leave. § 87(2)(b) told Police Officer Noel that she paid her fare and did not understand why she had to leave the station. Police Officer Noel in response tried to grab § 87(2)(b) arm, but ultimately could not because § 87(2)(b) took one or two steps backwards. Police Officer Noel then began walking towards § 87(2)(b) who at this point began slowly backing away. § 87(2)(b) could not recall if Police Officer Noel said anything to § 87(2)(b) as he walked towards her and stated to the CCRB that § 87(2)(b) and Police Officer Noel were “sort of walking in a circle” around the mezzanine. Eventually Police Officer Noel quickened his pace and was able to catch up to § 87(2)(b) and grab onto her arm. Police Officer Noel then began pulling § 87(2)(b) towards the emergency exit gate, causing § 87(2)(b) feet to drag until she was through the emergency gate door.

§ 87(2)(b) stated that when Police Officer Noel asked § 87(2)(b) to leave the station, § 87(2)(b) told him that she already paid and did not understand why she was being asked to leave. She then walked away, towards the train platform. As she did so, Police Officer Noel stepped in front of her to prevent her from going onto the platform. § 87(2)(b) tried to get past Police Officer Noel. Police Officer Noel then grabbed § 87(2)(b) who was yelling and screaming, by her arm and pulled her to the turnstiles. § 87(2)(b) attempted to pull away from Police Officer Noel and pushed against the turnstiles. Police Officer Noel ultimately pulled § 87(2)(b) through the emergency exit.

§ 87(2)(b) stated that as she walked up the staircase from the train platform to the mezzanine area of the station, she observed Police Officer Noel’s hand on the upper arm area of § 87(2)(b) coat. § 87(2)(b) was approximately 15 feet away from them when she made this observation. She did not know what prompted Police Officer Noel to touch § 87(2)(b) but stated that Police Officer Noel appeared to be trying to hold § 87(2)(b) and § 87(2)(b) appeared to be pulling away from him. § 87(2)(b) and § 87(2)(b) were then guided to the exit gate of turnstiles by Police Officer and Police Officer Eviy Romero.

Police Officer Noel stated that he and Police Officer Romero stood in the mezzanine of the 125th Street subway station when they observed § 87(2)(b) and § 87(2)(b) enter through the turnstiles together with one fare. Both Police Officer Noel and Police Officer Romero approached them and asked them why they did not each pay a separate fare. § 87(2)(b) replied, “We paid.” Police Officer Noel in response told § 87(2)(b) that she did not pay her fare and she continued to maintain that she did. Police Officer Noel told § 87(2)(b) that she had to leave the station. § 87(2)(b) replied, “Fuck no. I’m not leaving.” She then began walking around Police Officer Noel in a circle. Because § 87(2)(b) refused to leave the station after several verbal commands were issued to her, Police Officer Noel grabbed § 87(2)(b) by her arm in an attempt to remove her from the station. He could not recall how many times he had asked § 87(2)(b) to leave the station before he grabbed her arm but stated that it was more than once. When he grabbed her arm, § 87(2)(b) began cursing and “flailing” her arms. He could not recall any specific statements she made and could not describe the specific manner in which § 87(2)(b) “flailed” her arms. He also could not recall whether § 87(2)(b) made any additional physical

movements besides “flailing” her arms and pushing her body backwards in order to prevent him from taking her out of the mezzanine.

As § 87(2)(b) flailed her arms, Police Officer Noel did not lose a grip her arm and overcame her resistance by placing her in handcuffs for her safety and officer safety. Police Officer Noel could not recall if § 87(2)(b) was placed in handcuffs while inside the mezzanine or when she was escorted to opposite side of the turnstiles. Besides grabbing § 87(2)(b) arm, Police Officer Noel did not do anything else to remove her from the station.

Police Officer Romero stated that Police Officer Noel informed him that § 87(2)(b) entered the station with § 87(2)(b) and that he was going to stop her. Police Officer Noel and Police Officer Romero then both began walking towards the turnstiles. During that time Police Officer Romero observed an unknown male use a student metro card to enter the station. This male did not appear to be with § 87(2)(b) or § 87(2)(b) and so Police Officer Noel proceeded to stop § 87(2)(b) and Police Officer Romero approached the male. Police Officer Romero was approximately ten feet away from Police Officer Noel, § 87(2)(b) and § 87(2)(b) at that point, and could not hear any conversation between them. Police Officer Romero stated to the CCRB that he was speaking to the male for only about one minute when he heard an altercation between Police Officer Noel and § 87(2)(b) and saw § 87(2)(b) trying to walk away from Police Officer Noel, towards the direction of the train platform. Police Officer Noel said to § 87(2)(b) “You are not leaving,” and to issued her several verbal commands. Police Officer Noel and Police Officer Romero then both grabbed § 87(2)(b) s arms and walked her to the exit doors of the turnstiles because she refused to leave the station. Police Officer Romero could not recall if § 87(2)(b) was compliant with walking towards the turnstiles and out of the station.

The video footage provided by § 87(2)(b) (embedded below) begins with Police Officer Noel pushing § 87(2)(b) out of the turnstile exit door (Board Review 01). The video footage does not depict any actions that happened beforehand.



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The video footage provided by the MTA does not show § 87(2)(b) and § 87(2)(b) s entry into the subway station mezzanine (Board Review 02).

The MTA Rules of Conduct and Fines states that individuals are not permitted to enter the New York City Transit subway system or buses without payment of the fare (Board Review 25). Patrol Guide Procedure 221-01 states that officers may use reasonable force necessary to gain control or custody of subjects or overcome resistance (Board Review 09).

While the CCRB did not obtain a statement from § 87(2)(b) all parties agree that the force used by Police Officer Noel and Police Officer Romero consisted of grabbing § 87(2)(b) and pulling and pushing her to remove her from the station. In both § 87(2)(b) and § 87(2)(b) s

accounts, § 87(2)(b) was given multiple orders to leave the station by Police Officer Noel and did not comply with those orders. By all accounts, the force ceased once § 87(2)(b) was removed from the mezzanine. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b).

Allegation C- Force: Police Officer Rulx Noel used physical force against § 87(2)(b)

It is undisputed that Police Officer Noel pushed § 87(2)(b) through the emergency exit door.

§ 87(2)(b) stated that after Police Officer Noel pushed § 87(2)(b) out of the mezzanine, he then pushed § 87(2)(b) in the back as she walked through the gate. § 87(2)(b) never refused to walk through the gate before Police Officer Noel pushed her. Besides pushing § 87(2)(b) in the back, Police Officer Noel did not use any additional physical force against her.

Neither § 87(2)(b) nor § 87(2)(b) alleged that § 87(2)(b) was pushed by any officer.

As discussed above, the video footage provided by § 87(2)(b) (embedded below) begins with Police Officer Noel pushing § 87(2)(b) out of the turnstile exit door. At 00:05, § 87(2)(b) walks through the exit gate out of the mezzanine and, as she does so, Police Officer Noel pushes her in the back. § 87(2)(b) continues walking (Board Review 01).



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Police Officer Noel stated that § 87(2)(b) never became involved in this incident and believed she was still inside of the station when § 87(2)(b) was removed from the mezzanine. Police Officer Noel had no recollection of interacting with § 87(2)(b) and denied pushing her.

During his CCRB interview, after viewing the video footage (Board Review 01), Police Officer Noel acknowledged that it showed him pushing § 87(2)(b) but stated that he had no independent recollection of why he pushed her.

Police Officer Romero could not recall whether § 87(2)(b) accompanied him and Police Officer Noel as they guided § 87(2)(b) through the turnstile gate and could not recall if Police Officer Noel pushed § 87(2)(b) in the back as she walked through the turnstile gate.

Patrol Guide Procedure 221-02 (Board Review 21) states that “force may be used when it is reasonable to ensure the safety of a member of service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody...When appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force.”

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) (Board Review 11), § 87(2)(b) (Board Review 12), § 87(2)(b) (Board Review 13), § 87(2)(b) (Board Review 14) or § 87(2)(b) (Board Review 15) have been a party.
- Police Officer Romero has been a member-of-service for 13 years and this is the first CCRB complaint to which he has been a subject.
- Police Officer Noel has been a member-of-service for 12 years and is the subject of one other CCRB complaint. To date, this investigation is still open.

Mediation, Civil and Criminal Histories

- § 87(2)(b) wanted to mediate this complaint but § 87(2)(b) declined to mediate this complaint so it was not referred to the Mediation Unit.
- According to the New York City Comptroller's Office, as of September 17, 2018, no Notice of Claim has been filed in regards to this incident (Board Review 16).
- § 87(2)(b)

Squad No: _____02_____

Investigator: _____

Signature _____ Print Title & Name _____ Date _____

Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature _____ Print Title & Name _____ Date _____